



February 24, 2016

ENGROSSED HOUSE BILL No. 1164

DIGEST OF HB 1164 (Updated February 22, 2016 12:28 pm - DI 106)

Citations Affected: IC 35-50.

Synopsis: Law enforcement officers. Adds gaming agents and gaming control officers to the definition of "police officer" for purposes of the statute providing a sentence enhancement for individuals who point a firearm or discharge a firearm at a police officer while committing certain crimes.

Effective: July 1, 2016.

Mahan, Truitt, Morris, Stemler

(SENATE SPONSORS — CRIDER, HOLDMAN)

January 19, 2016, read first time and referred to Committee on Government and Regulatory Reform.

January 26, 2016, amended, reported — Do Pass.

January 28, 2016, read second time, ordered engrossed.

January 29, 2016, engrossed.

February 1, 2016, read third time, passed. Yeas 71, nays 23.

SENATE ACTION

February 3, 2016, read first time and referred to Committee on Civil Law.

February 23, 2016, amended, reported favorably — Do Pass.

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February 24, 2016

Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1164

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-50-2-11, AS AMENDED BY P.L.238-2015,
2 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]: Sec. 11. (a) As used in this section, "firearm" has the
4 meaning set forth in IC 35-47-1-5.

5 (b) As used in this section, "offense" means:

6 (1) a felony under IC 35-42 that resulted in death or serious bodily
7 injury;

8 (2) kidnapping; or

9 (3) criminal confinement as a Level 2 or Level 3 felony.

10 (c) As used in this section, "police officer" means any of the
11 following:

12 (1) A state police officer.

13 (2) A county sheriff.

14 (3) A county police officer.

15 (4) A city police officer.

16 (5) A state educational institution police officer appointed under
17 IC 21-39-4.

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(6) A school corporation police officer appointed under IC 20-26-16.

(7) A police officer of a public or private postsecondary educational institution whose board of trustees has established a police department under IC 21-17-5-2 or IC 21-39-4-2.

(8) An enforcement officer of the alcohol and tobacco commission.

(9) A conservation officer.

(10) A gaming agent employed under IC 4-33-4.5 or a gaming control officer employed by the gaming control division under IC 4-33-20.

(d) The state may seek, on a page separate from the rest of a charging instrument, to have a person who allegedly committed an offense sentenced to an additional fixed term of imprisonment if the state can show beyond a reasonable doubt that the person knowingly or intentionally used a firearm in the commission of the offense.

(e) The state may seek, on a page separate from the rest of a charging instrument, to have a person who allegedly committed a felony or misdemeanor other than an offense (as defined under subsection (b)) sentenced to an additional fixed term of imprisonment if the state can show beyond a reasonable doubt that the person, while committing the felony or misdemeanor, knowingly or intentionally:

(1) pointed a firearm; or

(2) discharged a firearm;

at an individual whom the person knew, or reasonably should have known, was a police officer.

(f) If the person was convicted of:

(1) the offense under subsection (d); or

(2) the felony or misdemeanor under subsection (e);

in a jury trial, the jury shall reconvene to hear evidence in the enhancement hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall hear evidence in the enhancement hearing.

(g) If the jury (if the hearing is by jury) or the court (if the hearing is to the court alone) finds that the state has proved beyond a reasonable doubt that the person knowingly or intentionally used a firearm in the commission of the offense under subsection (d), the court may sentence the person to an additional fixed term of imprisonment of between five (5) years and twenty (20) years.

(h) If the jury (if the hearing is by jury) or the court (if the hearing is to the court alone) finds that the state has proved beyond a reasonable doubt that the person, while committing a felony or



1 misdemeanor under subsection (e), knowingly or intentionally:
2 (1) pointed a firearm; or
3 (2) discharged a firearm;
4 at an individual whom the person knew, or reasonably should have
5 known, was a police officer, the court may sentence the person to an
6 additional fixed term of imprisonment of between five (5) and twenty
7 (20) years.
8 (i) A person may not be sentenced under subsections (g) and (h) for
9 offenses, felonies, and misdemeanors comprising a single episode of
10 criminal conduct.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1164, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 20, delete "police officers in:" and insert **"a police officer. However, the director of special investigations may not make an arrest or conduct a search or a seizure of a person or property unless the arrest, search, or seizure is performed while assisting another law enforcement officer who has requested the assistance of the director of special investigations."**

Page 2, delete lines 21 through 24.

and when so amended that said bill do pass.

(Reference is to HB 1164 as introduced.)

MAHAN

Committee Vote: yeas 12, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Civil Law, to which was referred House Bill No. 1164, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Page 1, delete lines 1 through 17.

Delete pages 2 through 5.

Page 6, delete lines 1 through 36.

Page 7, delete lines 24 through 25.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1164 as printed January 26, 2016.)

BRAY, Chairperson

Committee Vote: Yeas 8, Nays 0.

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